

REMARKS/ARGUMENTS

Reconsideration of this application and entry of this Amendment are solicited. Claims 14-21 will be pending in the application subsequent to entry of this Amendment.

The claims have been amended in order to more particularly point out and distinctly claim that which applicants regard as their invention and to direct them to preferred aspects of the disclosure. Specifically, the subject matter of claim 22 has been incorporated into each of the pending claims, claim 22 being deleted as being redundant. The claims now specify a topical cosmetic composition the significance of which has been discussed in the Amendment and response of August 5, 2009 and the remarks that follow.

Non-elected claims 23 and 24 have been canceled it being understood that this action is taken without disclaimer or prejudice to a divisional application directed to the subject matter of these claims.

The sole issue raised in the outstanding Official Action is the patentability of claims 14-21 and their alleged "obviousness" over a published international application of Gudas et al in view of a published international application to Collier et al. Applicants dispute the rationale behind combining these two documents as well as the conclusions asserted in the current Official Action.

Gudas describes the use of the combination as a tumor cell growth inhibitor as a form of cancer therapy. Applicants' new claims are clearly limited to cosmetic applications. As acknowledged in the Office Action at page 3, Gudas does not teach the pharmaceutical composition as a topical composition; indeed, the preferred administration method is intravenous, either as a mixture of the two agents, or by simultaneous use of two intravenous lines (page 4, 4th full paragraph). Other routes of administration of the cancer drugs include "intravascular, intravenous, intraarterial, subcutaneous, intramuscular, intratumor, intraperitoneal, intraventricular, intraepidural, or others" (page 6, 3rd full paragraph). All of the mentioned routes of administration are invasive, not topical as claimed by applicants.

Further Gudas is silent as to a cosmetic use of the combination of active ingredients. All uses taught relate to cancer therapy.

Collier is of no help in remedying the deficiencies of Gudas. Collier is directed to the use of anti-muscarinic agents which can be applied topically to treat a number of skin conditions,

including skin cancer. There is no teaching of any cosmetic use of these different active ingredients.

Neither Gudas nor Collier, alone nor in combination, describe a cosmetic composition of any sort, let alone a cosmetic composition as claimed, and thus it is requested that this rejection be withdrawn.

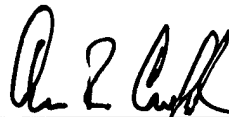
Applicants' previously submitted Declaration discussed the synergistic effect of the combination on normal keratinocyte differentiation as measured using a cell marker TGI. This is not the same as measuring apoptosis in carcinoma cells, as normal cells exist in a normal "regulated" environment, whereas cancer cells have a largely unregulated environment. Further, for cosmetic applications, decreasing differentiation is an important quality of an active ingredient. This indicates that there would be a resulting increase in skin cell thickness, which is desirable. In contrast, an increase of apoptosis, despite what is taught in Collier, is generally not desired in cosmetic applications as it can be associated with skin irritation.

In summary, it is Applicants' position that there is no obviousness, and it is respectfully requested that all claims be allowed. Entry of this Amendment and favorable action are solicited.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____



Arthur R. Crawford
Reg. No. 25,327

ARC:eaw
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100